

June 23, 2005

Ms. Mary L. Cottrell, Secretary  
Department of Telecommunications and Energy  
One South Station, 2<sup>nd</sup> Floor  
Boston, Massachusetts 02110

RE: Cambridge Electric Light Company and Commonwealth Electric Company,  
D.T.E. 03-118/04-114

Dear Ms. Cottrell:

Enclosed please find the Attorney General's Motion in Support of the Late-Filed Petition to Intervene of the Energy Consortium in the above matter.

Sincerely,

Colleen McConnell  
Assistant Attorney General

enclosure

cc: Shaela McNulty Collins, Hearing Officer  
Robert N. Werlin, Esq.  
George Dean, Esq.

COMMONWEALTH OF MASSACHUSETTS  
DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

_____	)	
Cambridge Electric Light Company	)	D.T.E. 04-114
and Commonwealth Electric Company	)	D.T.E. 04-117
_____	)	

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day caused to be served the foregoing document upon each person on the service list compiled by the Secretary in this matter. Dated at Boston this 23rd day of June, 2005.

\_\_\_\_\_  
Colleen McConnell  
Assistant Attorney General  
Office of the Attorney General  
Utilities Division  
One Ashburton Place  
Boston, MA 02108  
(617) 727-2200

COMMONWEALTH OF MASSACHUSETTS  
DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

_____	)	
Cambridge Electric Light Company	)	D.T.E. 04-114
and Commonwealth Electric Company	)	D.T.E. 04-117
_____	)	

**MOTION OF THE ATTORNEY GENERAL IN  
SUPPORT OF THE ENERGY CONSORTIUM’S PETITION TO INTERVENE**

**I. INTRODUCTION**

Cambridge Electric Light Company and Commonwealth Electric Company (together, the “Companies” or “NSTAR Electric”) have opposed (“NSTAR Electric’s Opposition”) the Energy Consortium’s (“TEC”) Late-Filed Petition to Intervene (“Petition”) that was submitted to the Department of Telecommunications and Energy (the “Department”) on June 10, 2005. In support of its opposition, NSTAR Electric claims that TEC has failed to show that its interests are not adequately represented by the Attorney General or that it has suffered “peculiar damage,” and that the issue of double collection of certain transmission costs should not be resolved by the Department. NSTAR Electric’s Opposition, pp. 4-5, 8.

**II. STANDARD OF REVIEW**

The Department, in conducting an adjudicatory proceeding, “may allow any person showing that he may be substantially and specifically affected by the proceeding to intervene as a party in the whole or any portion of the proceeding, and allow any other interested person to participate by presentation of argument orally or in writing, or for any other limited purpose,” as the Department may order. G.L. c. 30A, §10(4). A petition for leave to intervene in a Department proceeding must “describe the manner in which the petitioner is substantially and specifically affected by the

proceeding.” 220 C.M.R. §1.03(1)(b). In addition, a petitioner who is an individual customer must allege “peculiar damage” in order to be granted full-party status. *Boston Edison Company/Commonwealth Electric Company*, D.T.E. 98-118/98-119/126, pp. 11-12 (1999), citing *Robinson v. Department of Public Utilities*, 416 Mass. 668, 673-674 (1993); *Attorney General v. Department of Public Utilities*, 390 Mass. 208, 217 (1983).

The Department, in the interest of fairness, may allow late-filed petitions to intervene, upon a showing of good cause. *Boston Edison Company*, D.P.U./D.T.E. 97-95 (Interlocutory Order on Appeals of Hearing Officer Rulings), pp. 5-6 (1999). In ruling on late-filed petitions to intervene, the Department considers whether a petitioner has demonstrated good cause for late-filing. *Id.*, citing 220 C.M.R. §1.01(4).

### **III. ARGUMENT**

TEC’s members are billed transmission charges and its members will be substantially and specifically affected by, not only the proposed changes in those charges, but the transition charges, as well. Petition, p. 4. No other party to the proceeding would adequately represent TEC’s interests in this case. The Department has found numerous times that TEC’s members are affected by the Companies’ rates so as to be granted full intervenor status. *See Boston Edison Company, Cambridge Electric Light Company, Commonwealth Electric Company*, D.T.E. 03-121 (2003); *Boston Edison Company, Cambridge Electric Light Company, Commonwealth Electric Company*, D.T.E. 99-19 (1999); *Cambridge Electric Light Company*, D.P.U. 93-42 (1993); *Cambridge Electric Light Company*, D.P.U. 92-250 (1993). It would be unfair for the Department to exclude TEC from the proceedings. TEC has the right to expect and obtain reasoned consistency from the Department in granting it full intervenor status. *Boston Gas Company v. Department of Public Utilities*, 367 Mass.

92, p. 104 (1975).

As stated in its Petition, TEC's intervention at this point in the proceeding would not cause any additional delay or other inefficiencies since evidentiary hearings have not yet been rescheduled after the work stoppage at NSTAR Electric. Petition, p. 5. TEC has offered to take the case as it finds it which would not harm either the Companies or the Attorney General.

The Companies' real objection is that they want to avoid disclosure of possible double charging and refunds to its largest customers. This is no reason to leave ratepayers without a remedy - "[r]atesetting is not MONOPOLY®." *Fitchburg Gas and Electric Light Company*, D.T.E. 99-66-A, p. 27 (2001).

Whether the Companies double collected from customers is one of many issues in this proceeding. NSTAR Electric's jurisdictional arguments are irrelevant to the issue of TEC's intervention. NSTAR Electric will have ample opportunity later in the proceedings to present evidence and argument on the double collection issue.

#### **IV. CONCLUSION**

TEC has shown that it meets the Department's standards for intervention and has established good cause for its late -filing. In the interest of fairness, the Department should grant TEC leave to intervene as a full-party participant to these proceedings.

Respectfully submitted,

THOMAS F. REILLY  
ATTORNEY GENERAL

By: \_\_\_\_\_

Colleen McConnell  
Assistant Attorney General  
Office of Attorney General  
Utilities Division  
One Ashburton Place  
Boston, MA 02108  
(617) 727-2200

Dated: June 23, 2005